

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 8:14CR276
)	
Plaintiff,)	
)	MEMORANDUM
vs.)	AND ORDER
)	
THOMAS PEREZ,)	
)	
Defendant.)	

This matter is before the Court on Filing No. 76, the Defendant's "Formal Petition in Seeking Sentence Relief under Habeas Corpus with Consideration for New Constitutional Law of United States Supreme Court as Applicable under Title 28 U.S.C. Section § 2255(f)(3) upon Collateral Review," ("§ 2255 Motion"). The § 2255 Motion references the Supreme Court decision, *Johnson v. United States*, 135 S. Ct. 2551 (2015), and the Defendant appears to seek a reduction in his sentence based on that decision. The Court has reviewed the filings in this case and notes that the Defendant was sentenced for a controlled substance offense, and possession of a firearm in relation to a drug trafficking crime. A mandatory minimum sentence was imposed and it appears the Defendant argues that the *Johnson* decision would alter his sentence. Also before the Court is the Defendant's motion to stay these proceedings (Filing No. 80) and a Motion to Withdraw (Filing No. 79) filed by the Federal Public Defender. In the motion filed by the Federal Public Defender, he states that this matter has been reviewed, the defendant received the statutory mandatory minimum sentence and that the *Johnson* decision is not applicable to this case. The Court agrees.

Accordingly,

IT IS ORDERED:

1. The Defendant's motion to stay these proceedings (Filing No. 80) is denied;
2. The Defendant's Formal Petition in Seeking Sentence Relief under Habeas Corpus with Consideration for New Constitutional Law of United States Supreme Court as Applicable under Title 28 U.S.C. Section § 2255(f)(3) upon Collateral Review (Filing No. 76) is dismissed;
3. A separate Judgment will be issued denying the § 2255 Motion;
4. The Motion to Withdraw (Filing No. 79) filed by the Federal Public Defender is granted; and
5. The Clerk of Court is ordered to mail a copy of this order to the Defendant at his last known address.

DATED this 18th day of August, 2016.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge